

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT
AND PRELIMINARY AMENDMENT**

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Serial No. 10/714,767

Dkt.: P-11092.00

Filing Date: November 17, 2003

Title: IMPLANTABLE HEART VALVE PROSTHETIC DEVICES HAVING INTRINSICALLY
CONDUCTIVE POLYMERS

Remarks

Claims 1-19, 21-26, 28-34 and 36-41 are amended. Claims 42-44 are newly added. Therefore, claims 1-44 are pending in the application.

No new matter has been added by way of this amendment. The amendments to the claims and new claims 42-44 are fully supported by the application as originally filed.

In the Election of Species Requirement mailed March 6, 2006, the Examiner asserts the claims are directed to the following allegedly patentably distinct species under 35 U.S.C. § 121:

1. Prosthesis

- a) annuloplasty ring (FIG. 2);
- b) annuloplasty band (FIG. 3);
- c) prosthetic heart valve sewing ring;
- d) mechanical heart valve (FIG. 4); and
- e) stented bioprosthetic valve (FIG. 5);

2. Polymer layer on fabric

- a) polymer coating over individual filaments of fabric;
- b) polymer coating over individual bundles of fabric; and
- c) polymer coating over individual fibers of fabric;

3. Polymer layer formation

- a) polymer layer is product of *in situ* polymerization on fabric; and
- b) filaments of fabric are of integrally formed intrinsically conductive

polymer.

In particular, the Examiner asserts that "Applicant is required . . . to elect a single disclosed species under each element." Page 2 of the Election of Species Requirement. In addition, the Examiner alleges that currently, no claims are generic.

Applicants provisionally elect, with traverse, species (a) "annuloplasty ring" from **1. Prosthesis**; species (a) "polymer coating over individual filaments of fabric" from **2.**

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Polymer Layer on Fabric; and species (b) “filaments of fabric are of integrally formed intrinsically conductive polymer” from **3. Polymer Layer Formation**. Applicants identify at least the following claims that are readable on the provisionally elected species: claims 1-3, 5-11, and 13-26, and 42-43. Applicants understand that the subject matter of the nonelected claims may be pursued in a duly filed divisional patent application.

This Election of Species Requirement is traversed on the grounds that such requirements are optional in all cases. MPEP § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. MPEP § 803. It is respectfully submitted the search and examination of the presently pending claims can be made without serious burden on the Office.

Moreover, the Examiner is respectfully reminded that MPEP § 803.02 states that “[i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions.” In addition, “should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claims will be extended ... to the extent necessary to determine patentability of the Markush-type claim” (MPEP § 803.02).

Furthermore, in accord with MPEP § 809.02, “[u]pon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR §1.141.” Applicants respectfully submit that the pending claims include at least one generic claim, for example, claim 1.

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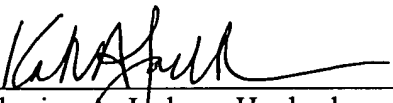
Title: IMPLANTABLE HEART VALVE PROSTHETIC DEVICES HAVING INTRINSICALLY
CONDUCTIVE POLYMERS

The Examiner is invited to telephone Applicants' attorney (763-391-9634) to
facilitate prosecution of this application.

Please charge any required fees or credit any overpayments to Deposit Account
No. 13-2546.

Respectfully submitted,

Date: April 25, 2006

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